

No. 9(1)81-8Lab/1446-A.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Delhi Automobile Private Ltd., 12/5, Mathura Road, Faridabad.

IN THE COURT OF
SHRI ISHWAR PRASAD CHAUDHRY,
PRESIDING OFFICER,
LABOUR COURT,
HARYANA, FARIDABAD.

Reference No. 97 of 1979

between

SHRI MADAN LAL BANSAL, WORK-
MAN AND THE MANAGEMENT OF
M/S. DELHI AUTOMOBILES PRIVATE
LIMITED, 12/5, MATHURA ROAD,
FARIDABAD.

Present :—

Shri Darshan Singh, for the workman.
Shri J. S. Saroha, for the respondent
management.

AWARD

This reference No. 97 of 1979 has been referred to this court by the Hon'ble Governor of Haryana—vide his order No. ID/FD/177-79/51443, dated 5th December, 1979 under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Madan Lal Bansal, workman and the management of M/s. Delhi Automobiles Private Limited, 12/5, Mathura Road, Faridabad. The terms of the reference was:—

1. Whether the termination of services of Shri Madan Lal Bansal, was justified and in order? If not, to what relief is he entitled?

After receiving this reference notices were sent to both the parties who appeared before me. The brief fact of the case are as under:—

The workman raised a demand through notice dated 6th September, 1979 on the management that he was working as an electrician since 20th October, 1976 with the respondent on a salary of Rs. 340/- per month. He was not allowed

to resume his duty and illegally terminated with effect from 17th August, 1979 by the respondents. He has demanded reinstatement with full back wages. The representative of this workman did not want to file any claim statement and requested that the demand notice be treated as claim statement of the workman.

The respondents filed their written statement in which they controverted the contention of the claimant and pleaded that the workman had voluntarily abandoned his services by absenting himself from duty without information to them. They say that they never terminated his services rather it is a case of self abandonment of service by the workman for long absence, as per the certified standing orders applicable in the company of the respondents. The absence is from 18th August, 1979 to 31st August, 1979.

The other plea in addition taken by the respondent in their written statement is that this workman claimant was employed gainfully. The claimant workman filed rejoinder on 12th March, 1980 in which he denied the contents of written statement filed by the respondent and affirmed his demand notice.

On the pleadings of the parties following issues were framed:—

1. Whether the workman left the job himself or he made himself subject to automatic termination of the services by absenting himself from duty? If so, to what effect? (OPM)
2. Whether the termination of services of the workman is proper, justified and in order? If not to what relief is he entitled? (OPM).
3. Relief?

No other issue was prayed or pressed for by the parties. My findings issue-wise are as under:—

ISSUE NO. 1 :

This issue is about absenting from duty without reason or information to the respondent and therefore, according to certified standing orders of the company (respondent) it is a case of self abandonment of service by the workman. It is admitted by both the parties that respondent have certified standing orders

Exhibit M-2/1. The clauses concerning this matter in the Exhibit M-2/1 are 11-G, 14-C and 14-E which cover the whole procedure and striking off the name of a workman permanent or temporary from the rolls of the management. This period is minimum 10 days. The respondent management have produced three witnesses Sarvshri R. C. Arora, Time office in-charge, Gurcharan Singh Anand Despatcher and Brij Malhotra, Branch Manager of the respondent company, as MW-1, MW-2 and MW-3 respectively.

MW-1 states he dealt with attendance register of the workman which he had brought, according to it all workmen marked themselves present in the register when they came on duty. The claimant also signed his own presence. He was absent from respondent company from 18th August, 1979 to 31st August, 1979. His name was struck off the rolls on 31st August, 1979 for long absence without reason or information on the direction of the higher authorities. He sent two UPC letters Exhibit M-1 and M-2 to the claimant workman on the address he has admitted correct in his own statement. The provision of letters being sent under UPC is present and valid in Exhibit M-2/1, the certified standing orders are applicable in the company. The UPC receipts are Exhibit M-3 and M-4. The copy of appointment letter is Exhibit M-5. The workman has admitted his signatures on it. According to this witness the claimant workman Shri Madan Lal Bansal neither reported for duty nor did he care to reply Exhibit M-1 and M-2 and for his long absence his name was struck off the rolls of the company on 31st August, 1979. This workman came to resume his duty after 31st August, 1979 but by that time his name had been struck off. He met MW-1 and the director of the respondent company who refused to take him on duty. He further says that all leave applications passed through him and this worker Shri Madan Lal Bansal did not apply for any leave.

MW-2 despatcher of the respondent had brought the despatch register where letters Exhibit M-1 and M-2 have been duly entered at Sr. No. 1056 on 21st August, 1979 and 1084, dated 26th/28th August, 1979 respectively.

MW-3 fully corroborated the version of MW-1. He has further brought on record Exhibit MW-2, MW-2/3 and MW-2/4 the correspondence between him and M/s. Atul Glass Company Faridabad where he has stated that this workman Shri Madan Lal Bansal was gainfully employed.

These three witnesses of the management respondent were put to heavy cross examination but the workman could not put a crack in the stand of respondent what to speak of smashing it. Not a single question has been put to MW-1 to MW-3 which they could not answer.

Then the workman examined himself as his own witness and closed his case. He takes a new stand that he had been terminated by the respondent from 17th August, 1979 because he refused to do a duty of a driver, as he knew driving to the respondent and therefore, he was terminated. This is entirely a new story. No such suggestion has been put to any one of the management witnesses, from the worker's side. Secondly during his cross examination he says that he had told this fact to his representative who drafted his demand notice. He has nowhere till the date of his deposition on oath in this court uttered a word about his this new defence. To me it seems to be entirely a made up story by this workman. This workman in his own cross-examination has first refused that he was employed with M/s. Atul Glass but in the next very sentence he agrees to it saying that he resigned two months back.

Anyway about issue No. 1 in absence of anything else the worker has challenged the sending of U.P.C. by certificate of posting, but I cannot say anything in this regard because the certified standing orders applicable to respondent are there to allow these. Another point on which the truthfulness of the attendance register has been challenged during arguments is that when the name of the workman was struck off in 8th month i.e. 31st August, 1979 then how did his name appear during September, 1979. This has been satisfactorily and clearly explained by MW-1. He says that the names of the workmen are carried over in next month 2-3 days earlier than the month finishes and the name of the

worker Shri Madan Lal Bansal was only struck off on 31st August, 1979 i.e. last day of the month. It is therefore his name came up on in September, 1979.

The management has relied on the following authorities:—

1. 1977 LLN Vol. I page 349 (Cal.)
In the ruling their Lordships were pleased to hold that **absence for more than the stipulated period is fatal to the case of worker.**
2. 1974 LLN Vol. II page 333 (Kar.)
In this it was held by the Hon'ble High Court that even over staying leave looses the lien of the workman of service.
3. 1968 AIR (S.C.) Page 33.
4. 1964 AIR (S.C.) page 1272.

In which the Hon'ble Supreme Court ruled 8 days after the leave expired the workman could be reinstated.

From the side of the workman it was argued that the above three rulings were for absence after leave sanctioned and availed which is not in this case. I would in return say that these rulings do not even spare a worker who went on leave after getting the same sanctioned and then absented. This workman absented from the very beginning then he has done a **bigger wrong than the other man**, who absented after availing of leave. From the side of the worker LLJ July Part 1980 was quoted in D.C.M's case. In this the stress has been put on intention to leave the job is to be seen. But this is not applicable in the instant case. It is quite distinguishable. The workman absented for about 14 odd days.

After having discussed this issue in the above lines I hold that the workman voluntarily absented without reason or information and this amounts to his abandonment of service of the respondent of his own. I decide this issue in favour of the management and against the workman claimant Shri Madan Lal Bansal.

ISSUE NO. 2:

This issue is about the justifiability of the termination of the workman. It is not a case of management terminating the services of the workman rather other **v round. It is a case of the workman** abandoning the services of the management by his own act. I have discussed

that elaborately in the foregoing issue and decide the same in the favour of the respondent management and against the workman. The termination is the result of the worker's own action. It is in other words a case of ball hitting the bat and not that bat hitting the ball.

I, therefore, hold that the termination of services of Shri Madan Lal Bansal, workman is proper, justified and in order bases on principles of national justice. He is not entitled to any relief. This be read in answer of this reference. The parties are left to bear their own costs.

ISHWAR PRASAD CHAUDHRY,
The 21st January, 1981.

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 230, dated the 30th January, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana. Labour & Employment Department, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)81-8Lab/1452.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Shree Ganesh Synthetics, Pvt. Ltd., Plot No. 10, Sector 25, Ballabgarh.

IN THE COURT OF SHRI ISHWAR PRASAD CHAUDHRY,
PRESIDING OFFICER,
LABOUR COURT, HARYANA,
FARIDABAD

Reference No. 1 of 1981
between

SHRI HIRA LAL, WORKMAN AND THE
MANAGEMENT OF M/S SHREE
GANESH SYNTHETICS PVT. LTD.,
PLOT NO. 10, SECTOR-25,
BALLABGARH

Present:

None for the workman.
Shri S D. Mishra for the management.

AWARD

This reference No. 1 of 1981 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/142-80/65045, dated 24th December, 1980 under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Hira Lal, workman and the management of M/s Shree Ganesh Synthetics, Pvt. Ltd., Plot No. 10, Sector-25, Ballabgarh. The term of the reference was:—

Whether the termination of services of Shri Hira Lal, was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were sent to the parties for 27th January, 1981. On that day, the representative of the management was present but neither the workman nor his authorised representative was present, when the service of the notice had already been effected on the workman. The case was called thrice and this court proceeded *ex parte* against the workman. Then the case was fixed for the *ex parte* evidence of the management for 29th January, 1981.

On 29th January, 1981, the management examined Shri S. D. Mishra, authorised representative of the management as MW-1. He stated in this court on oath that the workman had settled his dispute with the respondent-management and also received a sum of Rs. 600 in full and final settlement including the right of re-instatement or re-employment. He also filed a copy of settlement arrived at between the parties under section 18(1) of the Industrial Disputes Act, 1947 which is Exhibit M-1. It is just and fair. I, therefore, give my award in terms of the settlement. No order as to costs.

ISHWAR PRASAD CHAUDHRY,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 30th January, 1981.

Endorsement No. 237, dated 30th January, 1981.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana. Labour and Employment Departments, Chandigarh, as required

under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged within week's time.

ISHWAR PRASAD CHAUDHRY,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)81-8Lab/1453.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Clutch Auto Pvt. Ltd., Plot No. 111-112, Sector 6, Faridabad.

**IN THE COURT OF SHRI ISHWAR
PRASAD CHAUDHRY,
PRESIDING OFFICER,
LABOUR COURT, HARYANA,
FARIDABAD**

Reference No. 307 of 1980
between

**SHRI G. RAGHUVARAN, WORKMAN
AND THE MANAGEMENT OF M/S
CLUTCH AUTO PRIVATE LIMITED,
PLOT NO 111-112, SECTOR-6,
FARIDABAD**

Present:

Shri Yoginder Singh for the workman.

Shri Jagbir Singh for the management.

AWARD

This reference No. 307 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/65-80/38881, dated 24th July, 1980 under section 10(1)(c) of the Industrial Dispute Act, 1947, for adjudication of the dispute existing between Shri G. Raghuvaran, workman and the management of M/s Clutch Auto, Private Ltd., Plot No. 111-112, Sector-6, Faridabad. The term of the reference was:—

Whether the termination of services of Shri G. Raghuvaran, was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were sent to the parties. Both the parties appeared. On 30th January, 1981 Shri Yoginder Singh, authorised representative of the workman made a statement in this court that he does not want to pursue this reference because the name of the claimant workman has been erroneously mentioned as G. Raghuvaran where as the correct name of claimant workman is J. Raghuvaran. He wants to withdraw this reference and he will raise a fresh demand in the correct name of the workman.

In view of the above statement of the representative of the workman, I give my award accordingly and hold that the reference is bad and no dispute remains to be adjudicated between the parties. If the workman wants, he is at liberty to make a fresh demand notice for this reference. No order as to costs. So this award is in answer of this reference.

ISHWAR PRASAD CHAUDHRY,

The 30th January, 1981.

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 238, dated 30th January, 1981.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged within week's time.

ISHWAR PRASAD CHAUDHRY,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)81-8Lab/1454.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management

of M/s Anand Synthetics Pvt. Ltd., 14/2, Mathura Road, Faridabad.

IN THE COURT OF SHRI ISHWAR PRASAD CHAUDHRY,
PRESIDING OFFICER,
LAOUBUR COURT, HARYANA,
FARIDABAD

Reference No. 536 of 1980

between

SHRI RAM RATTAN, WORKMAN AND
THE MANAGEMENT OF M/S ANAND
SYNTHETICS PVT. LTD., 14/2,
MATHURA ROAD,
FARIDABAD

Present:

None for the Workman.

Shri O. P. Tyagi and Shri J. S. Saroha, for the management.

AWARD

This reference No. 536 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/58554, dated 1st December, 1980 under section 10(1)(c) of the Industrial Disputes Act, 1947, for adjudication of the dispute existing between Shri Ram Rattan and the management of M/s Anand Synthetics Pvt. Ltd., 14/2, Mathura Road, Faridabad. The term of the reference was:—

Whether the termination of services of Shri Ram Rattan was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were sent to the parties for 30th December, 1980. On that day, Shri Darshan Singh, authorised representative of the workman and representative of the management appeared and the case was fixed for 15th January, 1981, for written statement. On 15th January, 1981, the representative of the management was present but neither the workman nor his authorised representative was present. The case was called thrice and this court proceeded *ex parte* against the workman. Then the case was fixed for the *ex parte* evidence of the management for 16th January, 1981.

On 16th January, 1981, the management examined Shri J. S. Saroha, authorised representative as MW-1. He stated that the workman settled his dispute with the respondent management and also filed a photo copy of settlement which is

Exhibit M-1. He further stated that according to the settlement, Exhibit M-1, the workman has received a sum of Rs. 800.40 (Rs. Eight Hundred and Paise forty only) in full and final settlement of his claim, dues and dispute including the right of re-instatement or re-employment. He also filed a photo copy of receipt voucher, Exhibit M-2 and M-3. While answering the reference, I give my award that the workman has received the above said amount. He is not entitled to any relief.

ISHWAR PRASAD CHAUDHRY,
The 30th January, 1981.

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 239, dated 30th January, 1981.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged with week's time.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)81-8Lab/1455.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Mini Carbs India Ltd., 14/7, Mathura Road, Faridabad.

**IN THE COURT OF SHRI ISHWAR PRASAD CHAUDHRY,
PRESIDING OFFICER,
LABOUR COURT, HARYANA,
FARIDABAD**

Reference No. 513 of 1980
between

**SHRI RAJ PAL, WORKMAN AND THE
MANAGEMENT OF M/S MINI CARBS
INDIA LTD., 14/7, MATHURA ROAD,
FARIDABAD.**

Present:

Shri K. M. Rajgopalan along with
workman.

None for the respondent-management.

AWARD

This reference No. 513 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/219-80/54994, dated 27th October, 1980, under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Raj Pal, workman and the management of M/s Mini Carbs India Ltd., 14/7, Mathura Road, Faridabad. The term of the reference was:—

Whether the termination of services of Shri Raj Pal was justified and in order? If not, to what relief is he entitled?

After receiving this reference notices were sent to both the parties, who appeared on 18th December, 1980. But on 28th January, 1981, workman made a statement in this court that he had settled his dispute with the respondent-management. According to which the management took him on duty from 21st January, 1981 so he did not want to pursue this reference. He further stated that he would file his claim under section 33(c)(2) for his absence and suspension period, separately.

In the light of statement made by the workman, I hold that there is now dispute between the workman and the management as the workman has joined his duty from 21st January, 1981. No order as to costs. This be read in answer of the reference.

ISHAWAR PRASAD CHAUDHRY,
The 30th January, 1981.

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 240 dated 30th January, 1981.

Forwarded (four copies) to the Commissioner and Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947 with the request that acknowledgement of the award may please be sent to this court within a week.

ISHAWAR PRASAD CHAUDHRY,
Presiding Officer,

Labour Court, Haryana,